# ARTICLE 8 AFFORDABLE HOUSING

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#### **DIVISION 1 GENERAL PROVISIONS**

#### Section 8-101 Findings and Purpose.

- **Findings.** The Board of County Commissioners finds that an adequate supply of affordable housing in the County is essential and necessary to preserve and maintain the health, welfare, safety, and quality of life for residents of [County].
  - 1. **Stability of Economy.** An adequate supply of housing that is affordable to the local labor force is necessary for the local economy to remain stable and to grow in a healthy manner.
  - 2. **Increased Demand for Affordable Housing.** New development creates demand for workers in construction, maintenance, services and retail sales, increasing the demand for affordable housing.
  - 3. Mitigation of Impact by New Development. New development shall be required to provide affordable housing which mitigates the impacts that are attributable to such development in areas designated by the County, where affordable housing has become limited and problematic for adequate workforce housing.
- B. **Purpose.** The purpose of this Article is to ensure that the housing needs of all economic segments of the community will be met.
  - 1. Implementation of Comprehensive Plan Goals and Objectives. The Housing Goals, Objectives, Policies and Programs of the [Comprehensive Plan/Master Plan] shall be implemented through the affordable housing unit requirements set forth in this Article.
  - 2. Mitigation of Housing Impacts by New Development. New development shall be required to contribute to the affordable housing supply in the County, as reasonable and appropriate with consideration to the development's impact on the supply of affordable housing available to the local labor force.

Section 8-102 **Applicability.** Unless otherwise exempt by provisions of this Code, these requirements for affordable housing shall apply to land use change applications that propose the following.

- **A. Rezoning.** All applications for land use change that propose rezoning to a higher density residential use.
- **B.** Planned Unit Development. All applications for Planned Unit Development proposing residential density exceeding the underlying zoning provisions.
- **C.** Planned Unit Development, Amendment. All applications requesting a Planned Unit Development Amendment which results in an increase in density of residential use.

#### DIVISION 2 APPLICATION AND REVIEW PROCEDURES

**Section 8-201** Application Submittal Requirements. The applicant shall submit the following materials in addition to submittal requirements for application and review of the proposed land use.

- A. Affordable Housing Plan and Agreement. The applicant shall submit an Affordable Housing Plan that includes the following provisions. The approved plan shall become the Affordable Housing Agreement between the County, the applicant and the [County Housing Authority (CHA) or Approved Affordable Housing Entity (AAHE)], adopted in conjunction with final plat approval by the Board of County Commissioners.
  - **1.** The proposed location of the affordable housing units.
  - 2. The proposed number and unit mix of residential units to satisfy the requirements for affordable housing, based upon the provisions of Section 8-302, Computation of Number and Unit Mix of Affordable Housing Units.
  - 3. The proposed schedule for construction and completion of the affordable housing units in relation to the proposed construction and completion of the overall development.
  - **4.** The proposed purchase prices and/or rents of the affordable housing units.
  - 5. The proposed forms of deed restriction on both affordable housing unit lots and the free-market lots, and any other documents necessary to comply with the requirements of this Article.

- 6. The proposed County-approved entity which will administer the management of the deed restriction(s) (either the *County Housing Authority (CHA)* or an *Approved Affordable Housing Entity (AAHE)*).
- 7. The proposed method of security to the County that will insure construction of the affordable housing units.
  - a. Secured by Bond. A bond in an amount acceptable to the Board of County Commissioners to ensure the required number of affordable housing units are constructed.
  - b. Secured by Ratios for Permit Issuance. Provisions in the adopted Affordable Housing Agreement which require that building permits for ten (10) free-market houses may only be issued after a building permit for one affordable housing unit has been issued.
- **8.** The proposal for compliance with all provisions of Division 4, *Affordable Housing Guidelines* of this Article.
- 9. If the plan proposes an alternative to constructing affordable housing units in the form of payment in lieu, the plan shall indicate how the amount of payment complies with Section 8-301 C, Proposals for Paying Fee in Lieu of Affordable Housing Unit Construction.
- 10. If the plan proposes an alternative to constructing affordable housing units in the form of property in lieu, the plan shall describe the property and how it complies with Section 8-301 D, *Proposals for Lot and Land Dedication in Lieu of Affordable Housing Unit Construction.*

**Section 8-202** Review and Approval Procedures. The Affordable Housing Plan shall be reviewed by the [Administrator/Director] and the [CHA / AAHE].

**NOTE:** County may want another entity other than CHA reviewing plans for consistency purposes. Having another entity administer the restrictions is ok, but review needs to be consistently applied.

# DIVISION 3 CRITERIA FOR DEVELOPMENT OF AFFORDABLE HOUSING UNITS

**Section 8-301 Off-Site Affordable Housing.** Affordable housing is most desirable when adjacent to a variety of community services. In some cases, a mix of on-site and off-site affordable housing units may make sense as the desirable option, or the provision of all affordable housing units off-site.

- A. Request for Off-Site Location of Affordable Housing Units. At the time of Preliminary Plan approval, the Board of County Commissioners may consider a request by the applicant for off-site location of affordable housing units if the applicant demonstrates circumstances that justify the request. The following considerations shall be applied to the applicant's request for location of affordable housing units off-site.
  - 1. The land use change proposes low density planning, and does not afford the best location for affordable housing as outlined below in Section 8-301 B, *Criteria for Off-Site Affordable Housing Development*.
  - 2. The proposed affordable housing unit development will be located substantially closer in proximity to the following facilities and amenities when compared to the project parcel: public schools, commercial or retail centers, community or public recreation parks and activities, hospital and health care facilities, professional services, and public services including fire, police and emergency services.
  - 3. The applicant has developed a method or a procedure acceptable to the County to ensure that the proposed off-site affordable housing units are for sale *pro rata* with the sale or rental of lots contained within the project parcel.
- **B.** Criteria for Off-Site Affordable Housing Development. The proposed off-site development of affordable housing units shall satisfy the following criteria.
  - 1. The proposed affordable housing unit development will not be subject to any special assessments or charges for the upkeep of community facilities and amenities.

- 2. The proposed affordable housing unit development meets the requirements and guidelines for affordable housing set forth in this Article.
- **3.** The proposed affordable housing will be built within \_\_\_\_miles from proposed free market development.
- C. Proposal for Paying a Fee in Lieu of Affordable Housing Unit Construction. A proposal for payment in lieu shall be considered if the County deems such payment to be an appropriate alternative to construction of affordable housing units.
  - 1. Payment in lieu shall be determined by rates set and determined in the Affordable Housing Guidelines, set forth in Division 4 of this Article. [NOTE: Insert here whatever set of detailed guidelines County may have to refer to]
  - 2. Rates shall be determined based upon the difference between the current median housing price, as established from time-to-time, and what can be afforded by a household earning Area Median Income (AMI). [NOTE: Different counties may want to choose differing percentages of AMI, depending on local market conditions]
  - 3. Current rates and mix of housing and the adjustments that refine those costs by household size are included in the Affordable Housing Guidelines, set forth in Division 4 of this Article. [NOTE: Insert here whatever set of detailed guidelines County may have to refer to]
- **D.** Proposal for Lot or Land Dedication In Lieu of Affordable Housing Unit Construction. A proposal for lot or land dedication shall be considered if the County deems such dedication is an appropriate alternative to construction of affordable housing units.
  - 1. **Dedication of Platted Lots.** Lots dedicated as platted lots for the purpose of affordable housing units within a subdivision shall have no requirements for minimum square footage or other encumbrances that would preclude development of affordable housing units on that site.
    - **a.** Requirements for Home Owner's Association Fees or other regular or special encumbrances and obligations or

- assessments will be reviewed to determine if they are in excess of fees and charges contained in the Affordable Housing Guidelines set forth in Division 4. [NOTE: Insert here whatever set of detailed guidelines County may have to refer to]
- **b.** If determined to be in excess of fees allowed in the Affordable Housing Guidelines, special provision for fees and assessments applied to those lots will be required as a part of the proposed Homeowners Association Agreement.
- 2. Dedication of Land in Lieu. The proposal for dedication of land in lieu of construction of affordable housing units shall be subject to extensive review by the [Administrator/Director] for suitability and value. The proposal shall contain the following information, based upon site specific review and analysis prepared at the applicant's expense.
  - **a.** Likely number of affordable housing units that could be accommodated.
  - **b.** Zoning requirements for residential use.
  - **c.** Availability of legal and adequate water supply, and capacity for adequate wastewater treatment facilities.
  - **d.** Known hazards or special encumbrances limiting development.
  - **e.** Proximity to existing services and amenities.
- **E.** Inspection of Existing Units to be Designated as Affordable Housing Units. Prior to approval of an Affordable Housing Plan that contemplates use of off-site existing residential units, the applicant shall, at the applicant's expense, hire a rehabilitation specialist acceptable to the County to prepare a written inspection report, with necessary supporting documentation, addressing the following considerations.
  - 1. Compliance of each proposed affordable housing unit with the current housing and building codes.
  - **2.** Estimated life-cycle replacement timing and cost for the building structure and interior fixtures.

**3.** Deficiencies and livability concerns (e.g. room layouts, unit sizes, amenities, etc).

# Section 8-302 Computation of Number and Unit Mix of Affordable Housing Units.

- **A.** Number of Affordable Housing Units Required. The number of affordable housing units required for a proposed land use change subject these regulations for affordable housing shall be calculated based upon the following formula.
  - 1. Residential PUD. A proposed land use change to residential PUD or amendment to an approved residential PUD (PUD Amendment) shall provide a minimum of [ten percent (10%)] of the housing unit mix as affordable housing units. [NOTE: County may want more or less than 10% depending on local market conditions]
  - 2. Mixed-Use PUD. A proposed land use change to mixed use PUD, incorporating residential and commercial use or proposing amendment to an approved mixed use PUD (PUD Amendment) shall provide a minimum of [ten percent (10%)] of the housing unit mix as affordable housing units. [NOTE: County may want more or less than 10% depending on local market conditions]
  - **Rezoning, Residential Use.** A land use change that proposes rezoning to a higher density residential use shall provide the following percentages of affordable housing units.
    - **a.** [<u>Ten percent (10%)</u>] of the total housing units allowed by the original residential density shall be affordable housing units; [NOTE: County may want more or less than 10% depending on local market conditions]
    - b. [Twenty percent (20%)] of the total housing units allowed by the increased density shall be affordable housing units. [NOTE: County may want more or less than 20% depending on local market conditions]

- 4. Rezoning, Mixed-Use. A land use change that proposes rezoning to a higher density mixed use incorporating residential and commercial use shall provide the following percentages of affordable housing units.
  - a. [<u>Ten percent (10%)</u>] of the total housing units allowed by the original residential density shall be affordable housing units.
    [NOTE: County may want more or less than 10% depending on local market conditions]
  - [Twenty percent (20%)] of the total housing units allowed by the increased density shall be affordable housing units.
     [NOTE: Counties may want more or less than 20% depending on local market conditions]
- 5. Subdivision, Residential. A proposed land use change to residential subdivision shall provide a minimum of [ten percent (10%)] of the housing unit mix as affordable housing units. [NOTE: Counties may want more or less than 10% depending on local market conditions]
- **6. Subdivision, Mixed Use.** A proposed land use change to mixed use subdivision, incorporating residential and commercial use shall provide a minimum of [ten percent (10%)] of the housing unit mix as affordable housing units. [NOTE: Counties may want more or less than 10% depending on local market conditions]
- 7. Housing Unit Mix. The housing unit mix required for a proposed land use change subject to these affordable housing regulations shall be based upon the following formula. The applicant shall propose the mix of housing types. The approved mix will provide the minimum number of bedrooms required:
  - **a.** Multiply the number of affordable housing units required by 2.6 (the average number of persons in a household) then,
  - **b.** Divide the result by 1.5 (the U.S. Department of Housing and Urban development criteria of person per bedroom).
  - **c.** Any proposal for a unit with 3 or more bedrooms may be approved, but only after a special review to determine a need.

**d.** Any fractional affordable housing units created by the above formulas will be rounded up to the next highest number.

**Section 8-303** Review for 4-6 Bedroom Affordable Housing Units. The CHA or AAHE or will consider proposals for 4-6 bedroom units based upon the need for these units using the bedroom count to household size estimates in Table 8-303, below:

Table 8-303 Bedroom County / Household Size Estimates						
Number of	Minimum	Maximum				
Bedrooms	Persons	Persons				
0 – studio	1	2				
1	1	2				
2	2	4				
3	3	6				
4	4	8				
5	5	10				
6	6	12				

### Section 8-304 Pricing of Affordable Housing Units

### A. Housing for Sale.

- 1. The average price for all affordable housing units to be provided shall be the average price affordable to households whose incomes does not exceed [eighty percent (80%)] of the Area Median Income (AMI). [NOTE: Counties may want more or less than 80% depending on local market conditions]
- 2. The applicant may propose a combination of units affordable to households between 81% and 120% of the AMI and units affordable to households between 60% and 80% of the AMI.
- **3.** This price shall be calculated based in the following assumptions:

- **a.** Principle, interest, taxes, insurance and homeowner association dues not to exceed 33% of gross household income.
- **b.** A ninety-five (95) percent loan to value, 30-year mortgage at prevailing interest rates.

### B. Housing for Rent:

- 1. The mix of affordable housing units may be satisfied by affordable rental housing if the entity managing the property has a financial interest in the property, and agrees to voluntarily provide the units, acknowledging this action does not constitute rent control. Subsequent transactions must require a similar agreement.
- 2. The affordable rental housing units provided must average a rent affordable to households at [eighty percent (80%)] of the AMI.

#### [NOTES:

- Counties may want more or less than 80% depending on local market conditions.
- Income limit for rentals should be lower than for-sale homes. Example 80% AMI for ownership and 60% AMI for rentals.]
- 3. The average may be achieved by providing units affordable to renter between 81% and 100% of the AMI in combination with units affordable to households below 80% of the AMI.
- 4. The affordable rental housing shall have gross rents (rents plus utilities) not to exceed thirty (30) percent of the gross household income.

**Section 8-305 Execution of Deed Restriction by Applicant.** The approved, executed and recorded Deed Restriction for required commitments shall be submitted to the CHA or AAHE by the applicant developing affordable housing units.

**A.** Recorded Deed Restriction. Prior to issuance of a building permit for the affordable housing unit, a copy of the recorded Deed Restriction shall be submitted to the [CHA / AAHE] along with the [Board Resolution or recorded Final Plat]. [NOTE: What is being recorded is a restriction on that legal description for the land. The restriction runs with the land.]

**B.** Certificate of Occupancy. Prior to issuance of a Certificate of Occupancy, the Deed Restriction shall be amended as necessary to reflect changes approved by the [CHA / AAHE] which occurred during construction or conversion of the affordable housing unit (i.e.net livable square footage). The amended Deed Restriction shall be approved, executed and recorded, with the original returned to the [CHA / AAHE].

#### DIVISION 4 AFFORDABLE HOUSING GUIDELINES

Section 8-401 Determination of Qualification to Rent or to Purchase Affordable Housing Units. The following considerations shall be applied to qualify an owner or tenant for affordable housing.

- A. Requirements for Determination of Qualified Owner or Tenant.
  - 1. Non Discrimination. Determination of Qualification for an affordable housing unit shall be made without regard to race, color, creed, religion, sex, handicap, disability, national origin, familial status or marital status.
  - **2. Resident Qualification.** The owner or tenant is a legal full-time resident of [*County*]. To qualify as a full-time resident, the owner or tenant shall live at least ten (10) months a year in the County.
  - **3. Employment Qualification.** The owner or tenant is employed full-time by a [*County*]-based employment source. To qualify as a full-time employee, the following criteria shall apply.
    - **a.** A person who works or will work at least thirty-two (32) hours per week for a [County]-based employment source.
    - **b.** A person who has been recruited to work at least thirty-two (32) hours per week for a [*County*]-based employment source.
  - **4. Financial Qualification.** The owner or tenant has a cumulative net worth, minus qualified retirement assets, not in excess of \$100,000 and satisfies the income criteria set forth in Section 8-401B, *Income or Earnings Used in Determination of Qualified Owner or Tenant.*

- **Occupancy Qualification.** The owner or tenant will occupy the affordable housing unit as a primary residence upon purchase or rental.
- **Family Qualification.** Intended family compositions include: foster children, live-in attendants, and dependants under the age of twenty-three (23) who are away from college, family members on military leave or out-of-town on business.
- B. Income or Earnings Used in Determination of Qualified Owner or Tenant. In determining the financial qualification of an owner or tenant, consideration shall include but not be limited to the following sources of income.
  - 1. Earned income such as salaries, wages, overtime pay, commissions, bonuses, tips and payments received as an independent contractor for labor or services.
  - **2.** Severance pay.
  - **3.** Royalties, rents, trust income.
  - **4.** Annuities, dividends, capital gains, taxable distributions from corporations or partnerships.
  - **5.** Pensions, retirement benefits, social security benefits.
  - **6.** Gambling proceeds.
  - 7. Money drawn by a self-employed individual for personal use.
  - **8.** Workman's compensation benefits, disability insurance benefits, funds payable from any health insurance benefits or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wage.
  - **9.** Monetary gifts, prizes.
  - **10.** Alimony. An individual who is separated but not divorced may exclude spousal income if the couple intends to live separate and apart.
  - **11.** Divorced parent who has some parenting time but with whom the

children do not live may claim household size which includes the children.

# Section 8-402 Application and Review Procedures for Determination of Qualified Owner or Tenant.

- **A.** Application Materials for Determination of Qualified Owner or Tenant. Application shall be made to the [CHA / AAHE]. The following application materials shall be required for proof of residency, income, assets and employment.
  - **1.** Federal Tax returns for last two (2) years.
  - **2.** Current income statement in a form approved by the [CHA / AAHE].
  - Current financial statement in a form approved by the [CHA / AAHE].
  - 4. If current income is less than the previous tax return by twenty (20) percent or greater, the income shall be averaged based on the current income and previous tax return to establish an income category.
  - **5.** Verification of employment or offer of employment by a [*County*]-based employment source.
  - **6.** Evidence of legal residency (landlord verification, Colorado Drivers License, phone service, vehicle registration, voter registration).
  - **7.** Divorce or Support Decree.
  - **8.** Current credit report.
  - **9.** For purchasers, a signed release for the [*CHA / AAHE*] to access the loan application submitted to the Lender.
- **B.** Review and Determination of Qualification. The [CHA / AAHE] shall be responsible for application review and determination of qualified owners or tenants.
  - 1. **Determination of Completeness.** Upon receipt of an application,

the [CHA / AAHE] shall determine whether the application is complete.

- a. If the application is complete, the date of completeness determination shall be noted on the application, and [CHA / AAHE] shall begin its review.
- b. If the application is incomplete, the application shall be returned with written notice that identifies why the application is incomplete. No further action shall be taken on the application unless or until materials required to complete the application have been submitted to the [CHA / AAHE].
- 2. **Determination of Qualification or Non-Qualification.** Within \_\_\_\_ working days of the determination of completeness, the [CHA / AAHE] shall determine whether the individual is a qualified owner or tenant for affordable housing units developed in compliance with this Article.

#### C. Notice of Determination.

- Determination of Qualified Owner or Tenant. The [<u>CHA / AAHE</u>] shall provide written notification of a Determination of Qualified Owner or Tenant within \_\_\_\_ working days of the determination of qualification.
- **2. Determination of Non-Qualification.** The [CHA / AAHE] shall provide written notification of a Determination of Non-Qualified Owner or Tenant within \_\_\_\_ working days of the determination of non-qualification. The written notice shall contain the following information.
  - **a.** A statement of the reason(s) for the decision.
  - **b.** A statement that the applicant may request a review of the decision by following the grievance procedures described in Section 8-406 of this Article.
- **D.** Priority of Qualified Owners and Tenants. The [CHA / AAHE] shall assign all qualified owners and tenants one of two priorities. Those who qualify for both priorities will fall within Priority Category One.

- **1. Priority Category One.** Owners and Tenants that are employed by a [*County*]-based employment source.
- **2. Priority Category Two.** Owners and Tenants that are full-time residents of [*County*].

# Section 8-403 Matching Qualified Owner Income to Affordable Housing Units Proposed Price

- **A.** Qualified Owners Earning 80% or less of AMI. Qualified Owners earning 80% or less of Area Median Income (AMI) may only qualify to purchase homes which are priced to be affordable to households between 60% and 80% AMI.
- **B.** Qualified Owners Earning Greater than 80% and Up to 120% of AMI. Qualified Owners earning greater than 80% and up to 120% AMI may only qualify to purchase homes which are priced to be affordable to households between 80% and 120% AMI.
- C. Qualified Owners Earning from 120% to 165% of AMI. Qualified Owners earning greater than 120% and up to 165% AMI may qualify to purchase homes which are priced to be affordable to households between 120% and 165% AMI.

[NOTE: This section is needed to assure prices are pegged lower than the highest income who can qualify. But, again, differing counties may want to use differing AMI percentages.]

## Section 8-404 Sale and Resale of Affordable Housing Units

- **A. Initial Sale by Owner.** The initial sale of an affordable housing unit shall be the responsibility of the owner, in accordance with the sale and resale provisions of this Division 4.
- **B.** Re-Sale by [CHA / AAHE]. Unless otherwise required in the Deed Restriction, listing for re-sale of an affordable housing unit shall be with the [CHA / AAHE].
  - **1.** [CHA / AAHE] will advertise the affordable housing unit for sale.
  - 2. [CHA / AAHE] will administer the sale according to provisions of

- this Division 4 in effect at the time of sale.
- **3.** There shall be minimum three (3) month listing period before adjusting the sale price.
- 4. The applicant shall be responsible for any costs associated with termination of listing, including payment of administrative and advertising costs.
- **C.** Role of [CHA / AAHE] Staff. Staff shall be acting on behalf of the [CHA / AAHE]. It should be clearly understood by and between parties to a sales transaction that the staff members are not acting as licensed brokers to the transaction, but as representatives of the [CHA / AAHE] and its interests.
  - 1. All purchasers and sellers are advised to consult legal counsel regarding examination of the title and all of the contracts, agreements, and title documents.
    - **a.** The retention of counsel, licensed real estate brokers, or such related services shall be at the purchaser's and seller's own expense. The fees paid to [CHA / AAHE] are to be paid from the gross sales price.
  - 2. All purchasers and all sellers shall be treated fairly and impartially. Questions shall be answered and help shall be provided equally to any potential purchasers or sellers in accordance with the current Affordable Housing Guidelines. Staff shall prepare listings, sales contracts, extensions to contracts, and closing documents, and undertake all actions necessary to consummate the sale.
  - 3. [CHA / AAHE] staff shall attempt to help both parties to consummate a fair and equitable sale in compliance with the Affordable Housing Guidelines set forth in Division 4 of this Article.

#### D. Maximum Allowed Re-Sale Price.

- 1. Affordable housing units shall have a Deed Restriction carried with the title, which restricts future sale of the affordable housing unit to individuals qualified by the [CHA / AAHE] as an owner for affordable housing.
- **2.** Subsequent resale of affordable housing units shall begin with a

- meeting between the seller and the [CHA / AAHE] to go over deed restrictions and determine allowed price.
- 3. The resale of affordable housing units will not exceed the purchase price plus the value of capital improvements authorized by the [CHA / AAHE] and three (3) percent or the annual percentage increase in the CPI.
- **E.** Lottery Process. The [<u>CHA / AAHE</u>] will conduct a lottery for each affordable housing unit or group of units as they become available.
  - 1. Registration of Prospective Purchasers
    - a. No waiting list shall be maintained. New and separate applications must be submitted for each newly available affordable housing unit or groups of units.
    - b. Prospective purchasers shall register by application in person at the [CHA / AAHE] office
    - c. All applications will be reviewed for completeness and information verified
    - d. [CHA / AAHE] shall make a Determination of Qualification consistent with Section 8-401.
    - e. Prospective purchasers are encouraged to investigate sources of financing prior to submitting an offer for purchase of an affordable housing unit and can obtain names of lenders from the [CHA / AAHE].
  - **2. Conduct of Lottery.** [*CHA / AAHE*] shall conduct lotteries for available affordable housing units as follows:
    - All applications by Qualified Owners for the specific affordable housing unit sale, that have been determined complete and accepted by the [CHA / AAHE], shall be included.
    - b. Priority One applications shall be included in Lottery Round One. Each application, upon being drawn by random selection, shall be assigned a numerical position based on

order drawn.

- A separate Lottery Round Two for Priority Two applications shall be conducted. Each application, upon being drawn by random selection, shall be assigned a numerical position based on order drawn.
- d. The affordable housing unit choice will be offered to applications in the order drawn in Round One.
- e. Remaining affordable housing units, if any will be offered to Round Two.
- f. The [CHA / AAHE] shall designate the length of time an offer shall be available to a qualified owner before the offer is considered withdrawn or void.
- g. If an offer is deemed withdrawn or void, an offer to the next sequential Qualified Owner, shall be made.
- **F. Fees.** Unless otherwise required by the deed restriction, fee structure and payment shall be as follows.
  - 1. Seller will pay [CHA / AAHE] a sales fee equal to 2.25% of sales price paid as follows:
    - **a.** 1.15% paid at listing credited toward 2.25%
      - (1) This portion of the fee will not be refunded if seller fails to perform in compliance with the listing contract, refuses to accept full price offers in cash or equivalent, or withdraws listing after advertising commences.
      - (2) Administrative costs incurred by [<u>CHA / AAHE</u>] will be deducted from fee and the balance refunded if seller withdraws due to failure of bids at maximum price and acceptable terms.
    - **b.** Balance paid at closing through Title Company
  - 2. Buyer may be required to pay a financing fee. The purpose of a

financing fee is to enable the County and [<u>CHA / AAHE</u>] to exercise options to buy an affordable housing unit in event of foreclosure, to preserve the Deed Restriction. The amount and adequacy of fee and the mortgage reserve fund will be reviewed annually as a part of the review of these Affordable Housing Guidelines.

- a. Where FNMA type of financing provisions are used, (use of which shall be the sole discretion of the [CHA / AAHE]) a fee of .twenty-five (25) percent shall be assessed.
- **b.** Fee shall be paid by buyer, based on the amount of their mortgage.
- **c.** Fee will be deposited in a mortgage reserve account.
- d. If owner is refinancing, the fee shall be paid on only the amount financed that is greater than the previous mortgage if the fee was paid on that mortgage.
- **G.** Agreement to Deed Restriction. The purchaser must record a document acknowledging the purchaser's agreement to be bound by the recorded Deed Restriction. This documentation must be filed with the County Clerk concurrent with closing the affordable housing unit sale. The form of the document shall be acceptable to [CHA / AAHE] and the County Clerk. The original recorded document will be held by [CHA / AAHE].

#### Section 8-405 Other Requirements.

### A. Co-Ownership and Co-Signing.

- 1. Any co-ownership interest other than joint tenancy or tenancy in common must be approved by [CHA / AAHE].
- Co-signers may be approved for ownership of the affordable housing unit but shall not occupy the unit unless qualified by [CHA / AAHE].
- **B.** Renting an Affordable Housing Unit During Listing Period. If the affordable housing unit is listed for sale and the owner must leave the area, the affordable housing unit may be leased with approval of [CHA / AAHE].

- 1. Unit owner must submit a letter to [<u>CHA / AAHE</u>] requesting permission to lease the listed unit and agree this voluntary action does not constitute rent control.
- **2.** The tenant must be a Qualified Renter certified by [CHA / AAHE].
- The unit must be rented in compliance with requirements of Division 4, *Housing Authority Guidelines* of this Article, the Deed Restriction, and Home Owner's Association documents. The renter must acknowledge that he/she has received, read, understand and will abide by the requirements for tenancy.
- 4. There must be a written lease with minimum rental term of six (6) months and a maximum rental period of two years. There will be a 60-day move out clause in event the affordable housing unit is sold.
- **5.** The Home Owner Association must receive notice of intent to rent and have reasonable opportunity to comment.
- C. Leave of Absence for Owners of Affordable Housing Unit. If a Qualified Owner must leave the area for a limited period of time and wishes to lease the unit, a leave of absence may be granted by the [CHA / AAHE].
  - 1. The owner of the affordable housing unit must submit a letter to the [CHA / AAHE] at least thirty (30) days prior to leaving the area.
  - 2. The letter shall document the reason for leave of absence and commitment to return.
  - **3.** The maximum initial term of absence is one (1) year.
  - 4. An extension may be granted for one (1) additional year, but in no event can absence exceed two (2) years. Extension shall be granted only if rental of the affordable dwelling unit complies with requirements of the Deed Restriction and this Division 4, Affordable Housing Guidelines.
  - 5. An owner may request a one-time in-county leave of absence for a period of one (1) year. The [CHA / AAHE] will review and act upon the request based upon compliance with the conditions for leasing and absence set forth in this Section 8-405.

- **D.** Setting Rents for Allowed Leasing of Owned Units. Unless otherwise provided by the Deed Restriction, the rent shall be determined based upon the following considerations:
  - **1.** The Owner's Cost which includes:
    - **a.** Loan principle and interest.
    - **b.** Home Owner's Association fees
    - **c.** Utilities remaining in Owner's name.
  - **2.** Rent may also be established pursuant to the provisions of Section 8-305 B.
- **E.** Roommates. A Qualified Owner may rent a room in the affordable housing unit under the following conditions.
  - 1. The Owner continues to reside in the affordable housing unit and the unit is the sole and exclusive place of residence.
  - **2.** The Deed Restriction or Home Owner Association documents do not prohibit leasing to roomates.

**Section 8-406** Grievance Procedures. Any person aggrieved by a decision of the CHA or AAHE may file a written complaint with CHA Board or AAHE Board.

- **A. File Written Complaint.** The complaint shall contain the following information.
  - **1.** Grounds for complaint.
  - **2.** Action requested.
  - 3. Name, address and phone number of complainant and similar information for any authorized representative.
- **B. Schedule Hearing.** A hearing before the CHA Board or AAHE Board shall be scheduled for next regularly scheduled board meeting. The hearing may

be continued at board's discretion.

- **C. Review of Documents.** The CHA Board or AAHE Board and the complainant shall have sufficient opportunity before the hearing, and at the expense of the complainant, to examine documents, records and regulations that are relevant to the complaint. Documents that have not been requested and made available prior to the hearing may not be relied on during the hearing.
- **D.** Hearing Process [NOTE: hearing process formally adopted by CHA or AAHE Board should be restated here] The complainant shall be entitled to a fair hearing that provides the basic safeguards of due process, including notice of hearing and an opportunity to be heard in a timely reasonable manner.
  - 1. **Notice of Hearing.** The [CHA / AAHE] Board shall publish notice of the hearing [in manner adopted by CHA / AAHE Board]
  - 2. Conduct of Hearing.
    - a. If complainant fails to appear at scheduled hearing, the [CHA / AAHE] Board may make a determination to postpone the hearing, or to review and act upon the complaint based upon the written documentation and evidence submitted.
    - **b.** Review of oral or documentary evidence shall not require strict compliance with the rules of evidence applicable to judicial hearings.
    - c. The right to cross-examination shall be at the discretion of the [CHA / AAHE] Board and may be regulated by the [CHA / AAHE] Board as it deems necessary for a fair hearing.
  - **3. Hearing Record.** The following documents shall constitute the Hearing Record.
    - **a.** Written complaint.
    - **b.** Written documentation and evidence considered at the hearing.
    - **c.** Minutes of the meeting and record of decision.
- E. Decision of the [CHA / AAHE] Board. The [CHA / AAHE] Board shall

provide a written decision which includes the reasons for its determination. The decision of the board shall be binding on the [CHA / AAHE], which shall take all actions necessary to carry out the decision.

**Section 8-407** Annual Review of Affordable Housing Guidelines. The Affordable Housing Guidelines set forth in this Division 4 shall be reviewed annually by the [CHA / AAHE]. Revisions to the Guidelines shall be approved by resolution of the Board of County Commissioners.